



CALIFORNIA TEACHERS ASSOCIATION
DEPARTMENT OF LEGAL SERVICES

RECEIVED
PERB
SACRAMENTO
REGIONAL OFFICE

February 1, 2007

Robin Wesley, Acting General Counsel
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95814

Re: Comments on Proposed Revisions to PERB's Agency Fee Regulations

Dear Ms. Wesley:

I write on behalf of the California Teachers Association in response to PERB's proposed revisions to its agency fee regulations. CTA applauds PERB's efforts to conform its regulations to the current state of case law under *Chicago Teachers Union, Local No. 1 v. Hudson* (1986) 475 U.S. 292. We suggest three minor changes designed to clarify what appears to be the intent of the cited proposed regulations.

First, PERB correctly uses the term "challenger" to refer to individuals who have actually filed challenges with the union (see, e.g., proposed section 32995(c) referring to identifying "challengers" and thereafter escrowing amounts in dispute) but section 32994(a) refers to a challenger as simply one who "disagrees" with the chargeable calculation. To be consistent, section 32994(a) should define a challenger as one who disagrees with the union's chargeable calculation and files a timely challenge with the union.

Second, proposed section 32994(b)(1) states that a challenge is to be filed with "an official of the exclusive representative who has authority to resolve agency fee challenges." No official of the exclusive representative has such authority under *Hudson* or the proposed regulations. The regulation should call for challenges to be filed with the individual named in the *Hudson* notice as authorized to receive challenges.

Finally, section 32995(c) calls for escrowing "amounts in dispute" until challenges are resolved. This concept would require unions to escrow amounts in excess of that required by *Hudson* any time a challenger indicates that he/she believes that all of the union's expenditures should be deemed nonchargeable. All *Hudson* requires is the escrow of "amounts reasonably in dispute while...challenges are pending." *Hudson, supra*, at 310. The term "reasonably in dispute" should be used in the proposed regulation.

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Thank you for considering these comments.

Sincerely,

A handwritten signature in cursive script that reads "Beverly Tucker".

Beverly Tucker
Chief Counsel

BT/DR/la